

RESOLUTION NO. 94-91

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A RESOLUTION OF THE LODI CITY COUNCIL  
APPROVING THE DISCRIMINATION POLICY AND  
THE DISCRIMINATION COMPLAINTS PROCEDURE

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WHEREAS, Federal and State law regarding discrimination in the workplace has increased since the adoption of the City's Affirmative Action Policy in 1975; and

WHEREAS, such laws include the Fair Housing and Employment Act of 1977, the American's With Disabilities Act of 1990, the Civil Rights Act of 1991, and the Family Medical leave Act of 1993; and

WHEREAS, these laws have added various forms of discrimination including discrimination based upon sex, disability, and the serious health condition of an employee and his/her parent, child or spouse; and

WHEREAS, it is in the best interests of the City and its employees to have in place an active policy and procedures for enforcing said policy which will resolve discrimination issues in a timely and productive manner; and

WHEREAS, the policy establishes a pro-active City position of no-tolerance of discrimination in the workforce, defines discrimination and provides a description of actions to be considered as discriminatory. The procedure establishes a method for investigating and resolving complaints of discrimination.

NOW, THEREFORE, BE IT RESOLVED, the Lodi City Council hereby approves the Discrimination Policy and Discrimination Complaints Procedure attached hereto marked Exhibit A.

Dated: August 3, 1994

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I hereby certify that Resolution No. 94-91 was passed and adopted by the Lodi City Council in a regular meeting held August 3, 1994 by the following vote:

Ayes: Council Members - Davenport, Mann, Pennino, Snider  
and Sieglock (Mayor)

Noes: Council Members - None

Absent: Council Members - None

  
Jennifer M. Perrin  
City Clerk

CITY OF LODI  
ADMINISTRATIVE POLICY AND PROCEDURE MANUAL

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SUBJECT: : DISCRIMINATION - *Policy*

DATE ISSUED: : (August 3, 1994)

SECTION: : D

REFERENCE: : Title VII Civil Rights Act of 1964 as amended;  
Age Discrimination in Employment Act of 1967;  
Rehabilitation Act of 1973; Americans With  
Disabilities Act of 1990; Civil Rights Act of 1991;  
California Government Code; California Fair  
Employment and Housing Act; California Labor  
Code, Section 1102.1.

SECTION 1: PURPOSE

The City of Lodi is committed to providing a work environment free from all forms of discrimination including harassment. The City of Lodi will not discriminate against any applicant or employee on the basis of race, creed, color, political affiliation or beliefs, sex, sexual orientation, age, disability, religion, marital status, medical condition, or national origin.

This policy applies to all terms and conditions of employment including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, training, and separation or termination.

The purpose of this policy is to define discrimination, and provide a description of actions considered to be discriminatory.

SECTION 2: DEFINITIONS

A. Discrimination: The denial or exclusion of an individual, by reason of any of the bases listed in Section 1 of this policy, from participation in the employment, benefits of services, programs, or activities of the City of Lodi.

B. Harassment is a form of discrimination and includes any actions towards an individual or a group of persons on any of the bases listed in Section 1 of this policy above when such conduct is unwelcome and has the potential to affect an employee's work performance negatively and/or create an intimidating, hostile, or otherwise offensive work environment. Examples of harassment include, but are not limited to the following:

(1) Verbal: Derogatory comments; ethnic or racial slurs and jokes; innuendoes; or inappropriate comments on appearance including dress or physical features or race oriented stories.

(2) Written: Negative or derogatory letters, notes, epitaphs, poems, literature, posters, notices, bulletins, or cartoons.

(3) Physical: Assault, impeding or blocking movement, touching, derogatory hand gestures or signs, leering, or any physical interference with normal work or movement.

(4) Other forms of harassment include threats of reprisal; implying or actually withholding support for appointments, promotions, or transfers; rejection while on probation; punitive actions; change of assignments; or preparing a poor performance report on the basis of one of the factors mentioned above.

### SECTION 3:

### ENFORCEMENT

Discrimination in any form, will not be tolerated by the City. Such conduct by a City employee or tolerance of harassment by a supervisor will not be permitted, and disciplinary action up to and including termination will be taken against an employee engaging in unlawful discrimination and harassment. In addition, the City of Lodi shall endeavor to protect applicants and employees, to the greatest extent possible, from harassment by non-employees in the workplace.

Employees shall have the right to file complaints without the fear of reprisal or recrimination. Employees engaging in acts of reprisal or recrimination resulting from a complaint of discrimination shall be subject to disciplinary action up to and including termination.

CITY OF LODI  
ADMINISTRATIVE POLICY AND PROCEDURE MANUAL

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SUBJECT: : DISCRIMINATION COMPLAINTS - *Procedure*

DATE ISSUED: : (August 3, 1994)

SECTION: : D

REFERENCE: : Civil Rights Act of 1964; Age  
Discrimination in Employment Act of  
1967; Rehabilitation Act of 1973;  
Americans With Disabilities Act of  
1990; Civil Rights Act of 1991;  
California Government Code;  
California Fair Employment and  
Housing Act.

SECTION 1: PURPOSE

The purpose of this procedure is to identify the means by which the City of Lodi implements its policy on Discrimination, and to establish a procedure for investigating and resolving complaints of alleged discrimination.

SECTION 2: POLICY IMPLEMENTATION

Each department head is responsible for ensuring that the work environment in his or her department is free from discrimination and harassment by:

A. Having division heads and supervisors discuss the City policy and complaint resolution procedure with all employees under his or her direction.

B. Requiring division heads and supervisors to convey to their employees their strong disapproval of discrimination and harassment, to monitor the work environment of their employees, to cooperate in the investigation and resolution of related complaints, and to ensure that employees involved in complaints of discrimination or harassment are not subjected to retaliation.

A non-employee (such as a contractor, vendor, etc.) who subjects an employee to discrimination and harassment in the workplace shall be informed of the discrimination and harassment policy by the employee's supervisor, division head, or department head and appropriate actions such as contacting the supervisor of the offending person shall be taken to ensure that discrimination and harassment is stopped as soon as possible. Failure or refusal of contractors or vendors to take appropriate steps to deal with a complaint involving one or more of their employees may result in sanctions such as the cancellation of agreements or denial of the privilege of doing business with the City of Lodi.

In instances where members of the general public harass City employees, the affected employee should promptly notify the person that such conduct is inappropriate, offensive, and unwelcome. If such conduct persists, the employee should contact his or her supervisor, who shall be responsible to take appropriate action.

## SECTION 2:

## COMPLAINT RESOLUTION

A. Informal Procedure: In order to assure that further incidents do not occur, employees who believe that they have been subjected to discrimination and harassment should promptly inform the person that such conduct is inappropriate, offensive, and unwelcome. If an issue cannot be immediately resolved, the employee should promptly refer the matter to his or her supervisor, department head, and/or the Personnel Director (or designee), who shall be responsible to investigate and resolve the alleged incident(s).

B. Formal Procedure: In the event that informal resolution does not result in a satisfactory conclusion, the employee may pursue formal resolution by providing a written and signed statement of the complaint or submitting the appropriate complaint form available from the Personnel Department to the Personnel Director. This statement shall include the dates, times, and places of incident(s), a description of the circumstances, and the names of the persons involved and witnesses present. Employees shall have the right to file such complaints without the fear of reprisal or recrimination. Employees engaging in acts of reprisal or recrimination resulting from a complaint of discrimination or harassment shall be subject to disciplinary action up to and including termination. The Personnel Director shall investigate this complaint in a prompt and impartial manner by taking the following steps:

- (1) Reviewing the written complaint;

(2) Conduct a thorough, impartial and confidential investigation by interviewing all parties involved or witnesses thereof;

(3) Reviewing any pertinent documents or records;

(4) Preparing a written report regarding the findings and conclusions reached, which shall be furnished to the complainant, the alleged harasser, and the City Manager; and

(5) Recommending to the City Manager disciplinary action up to and including termination as may be appropriate, in the event that it is determined that discrimination or harassment has occurred.

The severity of the disciplinary action shall be determined by the severity and/or frequency of the offense(s). The complainant shall be notified of the action(s) to be taken. If the complainant is not satisfied with the decision, he/she may file an appeal to the City.

### SECTION 3:

### CONFIDENTIALITY

To the extent feasible, proceedings under this policy and all reports and records filed shall be confidential to the parties involved, and reasonable efforts shall be made to protect the privacy interests of the parties concerned.